

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

**TEXAS NAME MERCANTILE
INVESTMENT, LLC,**

Plaintiff,

vs.

CINCINNATI INSURANCE COMPANY,

Defendant.

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CIVIL ACTION NO. 5:17-cv-1196

DEFENDANT'S NOTICE OF REMOVAL

TO THE HONORABLE COURT:

Pursuant to 28 U.S.C. §§1441 and 1446, Defendant Cincinnati Insurance Company ("Defendant") files this Notice of Removal on the basis of diversity of citizenship and jurisdictional amount, and respectfully shows the Court the following:

1. Both at the time the lawsuit was originally filed, and at the time of removal, Plaintiff Texas Name Mercantile Investment, LLC (Plaintiff) was a citizen of Texas for diversity purposes.

2. Both at the time the lawsuit was originally filed, and at the time of removal, Defendant was a citizen of Ohio for diversity purposes because it is organized under the laws of Ohio and its principal place of business is in Ohio.

3. This is a civil action commenced by Plaintiff in state court in Bexar County, Texas on August 31, 2017. Plaintiff seek contractual damages, common law and statutory bad faith actual damages, trebled statutory damages, 18% per annum statutory penalties, common law punitive damages, exemplary damages, and attorney's fees. Plaintiff specifically pleaded that it seeks monetary relief in excess of \$1,000,000. *Plaintiff's Original Petition*, ¶ 60. Plaintiff's alleged damages clearly exceed the \$75,000 jurisdictional requirement.

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4. By virtue of diversity of citizenship the United States district courts have original jurisdiction.

5. Service of process in this cause along with Plaintiff's Original Petition was served on Defendant's registered agent on October 18, 2017, which is not more than thirty (30) days before the filing of this Notice of Removal, and this Notice of Removal is being filed within one year of the date suit was first filed in state court.

6. In accordance with 28 U.S.C. §1446(a), the following documents relating to Cause No. 2017-CI-16840, in the 37th Judicial District Court of Bexar County, Texas, styled *Texas Name Mercantile, Investment, LLC v. Cincinnati Insurance Company*, are attached hereto as Exhibits:

- Exhibit A** Docket/Case Information Sheet from the 37th Judicial District Court of Bexar County, Texas
- Exhibit B** Plaintiffs' Original Petition
- Exhibit C** Citation issued to Cincinnati Insurance Company and Officer's Return for Certified Mail
- Exhibit D** Defendant's Original Answer

7. Defendant is filing a copy of this Notice of Removal with the state court and serving same upon counsel for Plaintiffs.

WHEREFORE, based upon 28 U.S.C. §§1441 and 1446, Defendant NGIC respectfully requests that this action be removed to the United States District Court for the Southern District of Texas, Houston Division, and that it be granted such other and further relief to which it may show itself justly entitled.

Respectfully submitted,

/s/ Harrison H. Yoss

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COUNSEL FOR DEFENDANT

CERTIFICATE OF SERVICE

I certify that on November 21, 2017, a true and correct copy of the forgoing *Defendant's Original Answer* was delivered to the following counsel for Plaintiff by electronic service:

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/s/ Harrison H. Yoss

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